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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/974,739	10/09/2001	Raymundo Saenz	DP-306444	7051

7590 11/13/2002

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EXAMINER

BUTLER, DOUGLAS C

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 11/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



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EXAMINER

ART UNIT	PAPER NUMBER
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5
11-13-82

DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-14 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☒ Claims 1-14 are rejected.

5. ☐ Claims _____ are objected to.

6. ☐ Claims _____ are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

Art Unit: 3683

DETAILED ACTION

1. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. The prior art submitted by applicant has been considered and made of record by way of applicant-submitted Form PTO-1449 (copy enclosed for applicant's files).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over instant Figures 1-3, admitted prior art, in view of Hayakawa et al(US005556175) or Wieczorek et al(5704553).

Instant Figures 1-3, admitted prior art, discloses the invention substantially as claimed except for the specific configuration and mounting for the ball valve thereof.

Art Unit: 3683

Each of the secondary references to Hayakawa et al(US005556175) and Wieczorek et al(5704553) teaches the feature of configuring the ball valve to have a reduced footprint mounting section for connection to a stem or rod. See Fig. 11 of Hayakawa et al(US005556175) and Figure 2 of Wieczorek et al(5704553).

It would have been obvious at the time the invention was made to one having ordinary skill in the art to which the invention pertains to modify the ball valve arrangement of instant Figures 1-3, admitted prior art, to be partially spherical with a reduced footprint mounting section for connection to a rod or stem as taught by each of the secondary references to Hayakawa et al(US005556175) and Wieczorek et al(5704553) since such modification involves replacing one well known type of ball valve and manner of connection of the ball valve to its associated rod with an equivalent type of ball valve and manner of connection of the ball valve to its associated rod. The assemblies operate in substantially the same manner with substantially the same effect.

Re the specific shape of the ball valves, re the variety of embodiments set forth in instant Figures 5-10 as being claimed, it would have been obvious at the time the invention was made to one having ordinary skill in the art to which the invention pertains to modify the shape of the ball valve as desired since such modifications would have involved changes within the ability of an artisan in the art in order to adapt the ball valve to a particular environment and utility. A change in shape is generally recognized as being within the level of ordinary skill in the art. See MPEP 2144.04 under the heading "Legal Precedent as Source of Supporting Rationale" re various changes in shape. In re Dailey , 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

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The method of claims 8-14 is encompassed by the above modified structure.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Butler whose telephone number is (703) 308-2575. The examiner is normally in the USPTO Monday-Friday from 5:30 a.m. to 2:00p.m. Although the examiner may not always be present in his office to immediately answer the phone when called, the examiner will make every effort to return the call as soon as possible. If the examiner does not answer his phone, the examiner suggests that a brief message be recorded on the examiner's voice mail machine when necessary and appropriate. The examiner normally checks recorded phone calls at least once a day unless on leave.

The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687. Examiner Butler's immediate supervisor is Jack Lavinder at (703)308-3421.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

DOUGLAS C. BUTLER
PRIMARY EXAMINER

AU 3683